

1 **UNITED STATES DISTRICT COURT**2 **DISTRICT OF NEVADA**

3 \* \* \*

4 Keith Donald,

Case No. 2:25-cv-00064-RFB-BNW

5 Plaintiff,

6 v.

7 Chris Lee, et al.,

8 Defendants.

**ORDER**

10 Presently before the Court is pro se Plaintiff's motion for appointment of counsel (ECF  
11 No. 50), filed on May 6, 2025. No opposition has been filed.

12 **I. BACKGROUND**

13 Plaintiff brings a lawsuit under 42 U.S.C. § 1983 against officials of the North Las Vegas  
14 Municipal Court for violating the First, Fourth, Fifth, Eighth, Ninth, Eleventh, Thirteenth, and  
15 Fourteenth Amendment. Broadly, Plaintiff alleges he was not afforded due process of law from  
16 Case No. CR004082-23, a case involving his arrest for obstructing a police officer's duties and  
17 stalking. First, Plaintiff alleges that "a lacking record of conflict regarding his alleged victim of  
18 stalking" is in violation of the First Amendment. Next, he alleges he was falsely imprisoned and  
19 illegally stopped without probable cause in violation of the Fifth and Fourteenth Amendment. In  
20 addition, he alleges that the conditions of his pretrial supervision despite posting bond were in  
21 violation of the Eight Amendment. He alleges that the determination of incompetence in his case  
22 was a violation of the Thirteenth Amendment. Finally, he alleges ineffective assistance of counsel  
23 against all Defendants and the existence of a government conspiracy against him.

24 Also before the Court is a motion to dismiss by Defendants Chris Lee, Lawrence Phillips,  
25 Erin Tellez, Bianca Cardenas, Leslie Park, Kenneth Frizzel (ECF No. 22). Defendants Frizzle and  
26 Phillips filed separate motions to dismiss (ECF No. 30 and ECF No. 33, respectively). Plaintiff  
27 opposed those motions.

1 Now, Plaintiff requests a court-appointed attorney, arguing “exceptional circumstances”  
 2 and “public interest ramifications.” ECF No. 50.

3 **II. ANALYSIS**

4 “The court may request an attorney to represent any person unable to afford counsel.” 28  
 5 U.S.C. § 1915(e)(1). Federal courts do not, however, have the authority “to make coercive  
 6 appointments of counsel.” *Mallard v. U.S. Dist. Court*, 490 U.S. 296, 310 (1989); *see also United*  
 7 *States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995) (forfeiture proceedings).  
 8 “The court may appoint counsel . . . only under ‘exceptional circumstances.’” *Terrell v. Brewer*,  
 9 935 F.2d 1015, 1017 (9th Cir. 1991) (Bivens action); *see also Palmer v. Valdez*, 560 F.3d 965,  
 10 970 (9th Cir. 2009) (section 1983 action); *Agyeman v. Corr. Corp. of Am.*, 390 F.3d 1101, 1103  
 11 (9th Cir. 2004) (Bivens action); *Burns v. Cty. of King*, 883 F.2d 819, 824 (9th Cir. 1989) (per  
 12 curiam) (section 1983 action); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984) (section  
 13 1983 action). “A finding of exceptional circumstances requires (1) an evaluation of both the  
 14 likelihood of success on the merits and (2) the ability of the petitioner to articulate his claims pro  
 15 se in light of the complexity of the issues involved. Neither of these factors is dispositive and both  
 16 must be viewed together before reaching a decision.” *Terrell*, 935 F.2d at 1017 (citing *Wilborn v.*  
 17 *Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (section 1983 action)) (cleaned up); *see also*  
 18 *Palmer*, 560 F.3d at 970; *\$292,888.04 in U.S. Currency*, 54 F.3d at 569; *Wood v. Housewright*,  
 19 900 F.2d 1332, 1335–36 (9th Cir. 1990) (section 1983 claims). Appointment of counsel may be  
 20 justified when proceedings will go forward “more efficiently and effectively.” *Johnson v.*  
 21 *California*, 207 F.3d 650, 656 (9th Cir. 2000) (per curiam).

22 **A. Likelihood of success**

23 The first prong that must be analyzed is the likelihood of success on the merits. It is  
 24 impossible to make this determination at this juncture as motions to dismiss are pending (ECF  
 25 No. 22, ECF No. 30, and ECF No. 33). In addition, Plaintiff has filed a motion to amend (ECF  
 26 No. 57), with an accompanying 43-page proposed amended complaint, which Defendants can  
 27 oppose no later than July 13, 2025. The analysis of that motion will likely impact the  
 28 determination regarding his likelihood of success.

1                   **B. Petitioner's ability to articulate his claims pro se**

2                   Plaintiff does not articulate why the circumstances are exceptional, warranting  
3 appointment of counsel. It appears that some of the facts in the operative complaints are complex.  
4 But Plaintiff has been able to navigate the process thus far, filing both a complaint (ECF No. 7)  
5 and a motion to amend his complaint (ECF No. 37). In addition, he has been able to oppose the  
6 pending motions to dismiss. Thus, at this juncture, there is no evidence to suggest that Donald  
7 cannot articulate his claims pro se.

8                   **III. CONCLUSION**

9                   The courts see hundreds of these requests, but unfortunately, Plaintiff has not sufficiently  
10 alleged "exceptional circumstances" at this juncture. **IT IS ORDERED** that Plaintiff's Motion  
11 for Appointment of Counsel (ECF No. 50) is DENIED without prejudice.

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13                   DATED: July 8, 2025

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15                     
16                   BRENDA WEKSLER  
17                   UNITED STATES MAGISTRATE JUDGE

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